

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL No. 297 OF 2007**

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Between:

M/s. Vanitha Granites

... Appellant

And

The Secretary to Govt. of A.P.,
Rep. by its Secretary,
Inds. & Comm. Department,
Hyderabad & another

... Respondents

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:: J U D G M E N T ::
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Counsel for the appellant : Shri B. Vijayasen Reddy
for Shri M. Govind Reddy

Counsel for the respondents : Government Pleader for
Mines and Geology

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April 10, 2007

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to nullify the action taken by the Director of Mines and Geology, Andhra Pradesh (respondent No.2 herein) to cancel the lease granted to it for black granite quarry over an area measuring 1-49 hectares comprised in Survey No.409/4 of Mannegudem Village, Dornakal Mandal, Warangal District, the appellant has preferred this appeal under clause 15 of the Letters Patent.

A perusal of the record shows that on an application made by the appellant, respondent No.2 issued proceedings No.3225/R2-2/2003 dated 24-1-2005 and granted lease for 20 years for quarrying black granite from the area described hereinabove. The grant made by respondent No.2 was subject to various conditions including the following:

“The grantee shall execute the lease deed in Form-G within 60 days from the date of grant as per Rule 12 (5)(e) of the Andhra Pradesh Minor Mineral Concession Rules, 1966.”

The appellant neither executed the lease deed within the prescribed period of 60 days nor applied for extension of time in terms of Rule 12 (5)(e) or first proviso appended thereto. Therefore, by an order dated 13.9.2005, respondent No.2 revoked the grant and forfeited the amount deposited by the appellant. The revision filed by the appellant against that order was dismissed by the State Government vide its order dated 30-12-2006.

The appellant challenged the above mentioned two orders in Writ Petition No.1092 of 2007, but could not persuade the learned Single Judge to entertain his prayer for restoration of the grant. The learned Single Judge did take cognizance of the assertion contained in the affidavit of the appellant that he could not execute the lease deed due to mental depression and back problem (disprolapse), but dismissed the writ petition by recording the following observations:

“When the lease was granted subject to conditions, *inter alia*, the execution of lease deed in Form “G” within sixty days, non-compliance thereof would entail in revocation/cancellation of the lease. However, as contemplated under Rule 12(5)(e) of the Rules, on a request made by the grantee, the Director may extend time by fifteen days and such extension can be on two occasions totally not exceeding thirty days. First proviso to clause (e) also enables the Director to entertain the applications for extension of time even after prescribed period specified in clause (e). Second proviso mandates that the Director shall revoke the order granting lease in case no lease deed is executed within the stipulated period or extended period.

Therefore, the impugned order cannot be faulted. The submission of the learned counsel for the petitioner that Rule 12(5)(e) and Rule 13 of the Rules operate in a discriminatory manner is without any basis. It is admitted that Rule 12(5) of the Rules takes care of grant of a prospecting licence or quarry lease in respect of granite useful for cutting, polishing and marble whereas Rule 13 of the Rules is applicable only in respect of grant of quarry leases other than granite useful for cutting, polishing and marble. When the delegated legislation chose two methods of dealing with two different situations, the person governed by one Rule cannot complain of discrimination with reference to other Rule. Even otherwise this Court does not find any difference in Rule 12(5) and Rule 13 of the Rules.”

Shri B. Vijaysen Reddy, learned counsel for the appellant emphasized that his client could not execute the lease deed within the stipulated time of 60 days because he was unwell and argued that the learned Single Judge gravely erred by declining its prayer for restoration of the grant. He further argued that the time specified in Rule 12 (5)(e) for execution of the lease deed is not mandatory and, therefore, non-execution of lease within sixty days cannot be made a ground for cancellation of the grant. Shri Reddy then submitted that even though the appellant’s proprietor did not make an application for extension of time for execution of lease, the respondents should have taken into consideration the factum of his illness and extended the period specified in Rule 12 (5)(e).

We have duly considered the submissions of the learned counsel but have not felt impressed. Rule 12 (5)(e) of the Rules, which has bearing on this case, reads as under:

12.Grant of lease:

... ..

5)

(e) Execution of Licence or lease deed: The licence or lease deed shall be executed within sixty days from the date of grant or within such further period as the Director may allow in this behalf provided the grantee applies for extension of time within fifteen days from the date of expiry of period stipulated for

execution. Such extension may be granted by the Director not exceeding two times, and each time not exceeding 30 days.

Provided that any such application may be entertained even after the prescribed period specified above, if the applicant satisfies the Director that he had sufficient cause for not making application within the specified time.

Provided further that in case no licence or lease deed is executed within the stipulated period or the extended period due to any default on the part of the applicant, the Director shall revoke the order granting licence or lease and the deposit amount paid along with application shall be forfeited to the Government.”

An analysis of the above reproduced rule makes it clear that the Director is empowered to extend the time fixed for execution of the lease by a maximum period of 60 days. First proviso to Rule 12 (5) (e) enables the Director to entertain an application for extension even if the same is made after expiry of the period specified in clause (e).

The facts of this case shows that the grant was made in favour of the appellant on 24-1-2005. Therefore, in the normal course, the lease deed ought to have been executed in the prescribed form on or before 25-3-2005. However, the fact of the matter is that the proprietor of the appellant did not take any step in that direction. Not only this, he did not even apply to respondent No.2 for extension of time for execution of the lease deed. Therefore, the action taken by respondent No.2 for revoking the grant in terms of the mandate of second proviso to Rule 12 (5)(e) cannot be declared illegal.

The appellant’s plea that its proprietor S. Linga Murthy could not execute lease deed on account of mental depression and back problem merits rejection because no evidence has been produced on the record of the writ petition to show that on account of his illness, Sri Murthy was not in a position to make request to respondent No.2 for extension of the time specified in Rule 12 (5)(e) of the Rules. In this context, it is significant to mention that in the memo of revision filed on

behalf of the appellant, it was not even mentioned that due to acute illness, its proprietor could not contact respondent No.2 and make request for extension of the time specified in Rule 12 (5)(e).

No other point has been argued.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.568 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

April 10, 2007

C.V. NAGARJUNA REDDY, J

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